

GROTTA, GLASSMAN & HOFFMAN, P.C.  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

vs.

JAMES DOYLE, CYNTHIA HOLLOWAY,  
MICHAEL GARNETT, MARK  
MACCARIELLA and the PITWU HEALTH  
AND WELFARE FUND

Defendants.

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CYNTHIA HOLLOWAY,

Crossclaimant and Third-Party  
Plaintiff,

vs.

MICHAEL GARNETT, MARK  
MACCARIELLA, DAVID WEINSTEIN, UNION  
PRIVILEGE CARE, INC., DANTE  
GORENO, FRANK MILITELLO, TIM  
FOSTER, NEAL GOLDSTEIN and  
FREEDMAN & LORRY, and THE  
MCKEOUGH COMPANY,

Third-Party Defendants.

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Case No. 05-cv-2264 (JBS)(AMD)

**FIRST AMENDED  
ANSWER TO COMPLAINT**

Amended Answer to the Complaint, with the responses herein intended to completely supplement and replace the answers to the allegations previously submitted:

**JURISDICTION AND VENUE**

1. Defendant Cynthia Holloway ("Holloway") admits the allegations contained in Paragraph 1 to the extent it states Plaintiff's purpose for filing a Complaint.
2. Defendant Holloway admits the allegations contained in Paragraph 2.
3. Defendant Holloway admits the allegations contained in Paragraph 3.

**PARTIES**

4. Defendant Holloway admits the allegations contained in Paragraph 4.
5. Defendant Holloway admits the allegations contained in Paragraph 5 to the extent the Fund existed but otherwise denies the remaining allegations for lack of knowledge.
6. Defendant Holloway admits the allegations contained in Paragraph 6.
7. Defendant Holloway admits the status as named Trustee but otherwise denies the allegations contained in Paragraph 7 because it calls for a legal conclusion.
8. Defendant Holloway admits the allegations contained in Paragraph 8.
9. Defendant Holloway admits the allegations contained in Paragraph 9.

**FACTUAL ALLEGATIONS**

10. Defendant Holloway denies the allegations contained in Paragraph 10 for lack of knowledge or information.
11. Defendant Holloway denies the allegations contained in Paragraph 11 for lack of knowledge or information.
12. Defendant Holloway denies the allegations contained in Paragraph 12 for lack of knowledge or information.

13. Defendant Holloway denies the allegations contained in Paragraph 13.
14. Defendant Holloway denies the allegations contained in Paragraph 14.

**VIOLATIONS**

15. Defendant Holloway admits that if the facts as alleged in paragraph 15 of the Complaint occurred, than the legal conclusions stated therein are correct, but otherwise denies for want of knowledge whether such actions took place.

16. Defendant Holloway admits that if the facts as alleged in paragraph 16 of the Complaint occurred, than the legal conclusions stated therein are correct, but otherwise denies for want of knowledge whether such actions took place.

17. Defendant Holloway admits that if the facts as alleged in paragraph 17 of the Complaint occurred, than the legal conclusions stated therein are correct, but otherwise denies for want of knowledge whether such actions took place.

18. Defendant Holloway denies the allegations contained in Paragraph 18.

19. Defendant Holloway denies the allegations contained in Paragraph 19 to the extent it applies to Holloway.

20. Defendant Holloway denies the allegations contained in Paragraph 20 to the extent it applies to Holloway.

21. Defendant Holloway denies the allegations contained in Paragraph 21 to the extent it applies to Holloway.

**AFFIRMATIVE DEFENSES**

1. Plaintiff's allegations fail to state a claim upon which relief can be granted as to Holloway.
2. Any damage or injury claimed by the Plaintiff is the result of the actions, inactions or omissions of person, entities or parties other than Holloway.

3. Any damage or injury claims by the Plaintiff is the result of the actions, inactions or omissions of entities over which Holloway has no control.

4. Holloway was subject to intentional deception, fraud and misrepresentation leaving her unable to perform any function or role asserted by Plaintiff without any fault on her own part.

5. Holloway reserves the right to amend and supplement these affirmative defenses as they become realized through discovery.

WHEREFORE, Defendant Cindy Holloway requests judgment dismissing the Complaint against her with prejudice, together with its attorneys' fees and costs of suit and for relief as requested in her Crossclaims and Third-Party Complaint against the named Third-Party Defendants.

GROTTA, GLASSMAN & HOFFMAN, P.C.  
Attorneys for Defendant Cynthia Holloway

By:

  
KEITH R. McMURDY  
For the Firm

Dated: August 8 , 2005

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I caused a copy of the foregoing First Amended Answer to be served upon:

Louis De Bernardo, Esq.  
Office of the Solicitor  
U.S. Department of Labor  
201 Varick Street – Room 983  
New York, New York 10014

  
Sandra Russo

Dated: August 8, 2005

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